

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IESAH MITCHELL, next friend for A.M., et
al.,

Plaintiffs,

Case No. 1:22-cv-475

v.

Hon. Hala Y. Jarbou

CITY OF BENTON HARBOR, et al.,

Defendants.

ORDER

In accordance with the opinion entered this date:

IT IS ORDERED that the report and recommendation (“R&R”) of the magistrate judge (ECF No. 120) is **APPROVED** and **ADOPTED** in full as the opinion of the Court, except to the extent it asserts that “[s]ome initial concerns regarding dosage appear to have been resolved.” (*See* R&R 42.) The Court does not adopt that assertion.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by Defendants Sarkipato, Clark, Onan, and Oswald (the “State Defendants”) (ECF No. 91) is **GRANTED**. Accordingly, the federal claims against the State Defendants are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that the Rule 12(b)(1) motion to dismiss by Defendants Muhammad, O’Malley, Watson, Mitchell, and the City of Benton Harbor (the “City Defendants”) (ECF No. 86) is **DENIED**.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by the City Defendants (ECF No. 93) is **GRANTED**. Accordingly, the federal claims against Defendants

Muhammad, O'Malley, Watson, Mitchell, and the City of Benton Harbor are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by Defendant F&V Operations and Resource Management, Inc. (ECF No. 81) is **GRANTED**. Accordingly, the federal claims against F&V Operations and Resource Management, Inc. are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that the Rule 12(b)(6) motion to dismiss by Defendant Elhorn Engineering Company (ECF No. 84) is **GRANTED**. Accordingly, the federal claims against Elhorn Engineering Company are **DISMISSED** for failure to state a claim.

IT IS FURTHER ORDERED that the Court declines to exercise supplemental jurisdiction over Plaintiffs' claims arising under state law. Accordingly, Plaintiffs' state-law claims are **DISMISSED WITHOUT PREJUDICE**.

Because all claims have been dismissed, the Court will enter a judgment dismissing the case.

Dated: September 28, 2023

/s/ Hala Y. Jarbou

HALA Y. JARBOU

CHIEF UNITED STATES DISTRICT JUDGE